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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **O.M.P.(I) (COMM.) 84/2020**

ANCHAL DHAWAN

..... Petitioner

Through: Mr. B.B. Gupta, Sr. Adv with
Mr.Namit Suri, Mr. Dipender
Chauhan & Ms. Kritika Khanna,
Advvs.

versus

WANNAMO MARKETING PVT..LTD

..... Respondent

Through Mr. Jatin Sehgal with Mr. Adhirath
Singh, Mr. Madhar Narayan & Ms.
Shikha Khurana, Advvs

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **20.03.2020**

I.A. 3669/2020 (for exemption)

1. Exemption allowed, subject to all just exceptions. The application stands disposed of.

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2. The present petition under Section 9 of the Arbitration and Conciliation Act has been filed seeking primarily the following relief:-

“ Pass an ex-parte ad interim injunction restraining the Respondents their successors, employees, representatives, assigns, etc. from spreading and circulating any false, frivolous and defamatory statements, information and material about the Petitioner and its associates including but not limited to prospective client, social media, print media, etc.”

3. The petitioner, who claims to be the co-founder and former Vice President of Sales Enterprises of the respondent, resigned from the services of the respondent vide his e-mail dated 04.11.2019, which was accepted by the respondent on 13.11.2019. Learned Senior counsel for the petitioner submits that soon after the petitioner resigned from service, the respondent has gone around not only filing false cases against him and two other ex-employees namely, Mr.Rana Randeep and Ms.Sugandh Dixit, who have joined the petitioner in running a new enterprise “Locationsz Gansal Martech Pvt Ltd”, but has also got a wholly false and misconceived criminal case being FIR No.34/2020 registered against them before the Cyber Cell, Gurugram. He submits that since the petitioner and the other two employees are engaged in a similar business, as being carried out by the respondent, it has besides instituting baseless proceedings against the petitioner and his two associates at Gurugram but is also going around making defamatory statements against them. He draws my attention to the whatsapp messages received by the petitioner from his present clients prays that the respondent be restrained from making any defamatory statements against the petitioner and his aforesaid two associates.

4. On the other hand, Mr.Jatin Sehgal, Advocate, who appears on advance notice on behalf of the respondent and hands over a copy of his Vakalatnama which is taken on record, while contending that the present petition is not maintainable, submits that the respondent has not made any defamatory statement, whatsoever, against the petitioner. He submits that, in fact, it is the petitioner who is going

around making defamatory statements against the respondent. He however, submits that, without prejudice to its rights and contentions, the respondent is once again willing to assure the Court that even in the future it will not make any defamatory statements against the petitioner or his associates but prays that the petitioner be also directed to give a similar assurance to this Court qua the respondent.

5. Learned Senior counsel for the petitioner submits, on instructions, that subject to the respondent assuring this Court that no defamatory statements will be made against the petitioner and his two associates, the petitioner will not make any defamatory statements against the respondent.

6. At this stage, learned Senior counsel prays that, since the petitioner has already moved an application under Section 8 of the Arbitration and Conciliation Act in the suit instituted by the respondent, it would be in the interest of justice, that instead of the matter continuing before the Court at Gurugram, this Court appoint an independent Arbitrator for adjudication of the disputes and differences which have arisen between the parties in relation to employment contract dated 13.10.2014 between the petitioner and the respondent. He further submits the disputes qua the petitioner's termination and that of his aforesaid two associates be also referred to the same arbitrator.

7. Learned counsel for the respondent has no objection to said course of action but submits that in order to avoid any ambiguity, the aforesaid two associates of the petitioner be also impleaded as co-petitioners. He further submits that upon appointment of an arbitrator

by this Court, the respondent without prejudice to its rights and contentions, will withdraw its pending Suit before the Court at Gurugram.

8. Accordingly, at the oral request of learned Senior counsel for the petitioner, Mr.Rana Randeep and Ms.Sugandh Dixit are impleaded as petitioner nos.2 and 3. Amended memo of parties has been handed over in Court and is taken on record.

9. The petitioner nos.2 and 3 will also file their supporting affidavits in this regard within a period of one week.

10. In view of the aforesaid stand taken by the parties, while directing both sides to remain bound by their assurance given to this Court to not make any defamatory statements against each other, Mr Justice S.J Vazifdar (Retd.) (Mob:9820102088) is appointed as the sole Arbitrator for adjudication of the disputes and differences which have arisen between the parties qua the employment contract dated 13.10.2014 entered into between the petitioner no.1 and his resignation from service but also qua the disputes between the petitioner nos.2 and 3 and the respondent in this regard.

11. Before commencing arbitration proceedings, the Arbitrator will ensure compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

12. Needless to state that it will be open for both the sides to raise all claims including the claims raised in the respondent's suit at Gurugram, before the learned Arbitrator. It is made clear that this Court has neither examined nor expressed any opinion on the merits of the inter se claims of both sides.

13. The petition is disposed of in the aforesaid terms.
14. A copy of this order be sent to the learned Arbitrator.
Dasti under the signatures of the Court Master.

REKHA PALLI, J

MARCH 20, 2020
gm